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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,211	02/24/2004	Thomas Oval Wood		3042

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EXAMINER

ALI, SHUMAYA B

ART UNIT PAPER NUMBER

3743

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,211

Applicant(s)

WOOD, THOMAS OVAL

Examiner

Shumaya B. Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: detailed action.

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chitwood US Patent No. 5,709,649 in view of Kazmierczak et al. US Patent Application Publication No. 20050010147 A1

2. **As to claim 1, Chitwood discloses** in figures 1-8 a neck curvature alignment device comprising: a device having a carved-out central section (figure 1, 66) adjoined by two lateral interior surfaces (figure 1, 68) of equal length, height, and angle creating a neck trough (figure 2, 64), **As to claim 2**, wherein said neck trough is generally arch shaped (see figure 2). **As to claim 3**, wherein said neck trough is accompanied by two vertical surfaces, or legs of the arch, extending at an equal length, height, and angle, to create the bases of the arch (see figure 3). **As to claim 4**, wherein said neck trough and its surroundings, continuous piece of foam are additionally bordered by two lateral exterior surfaces (figure 3, 74,75) of equal length, height, and angle adjoined by one horizontal (figure 1, 70) exterior surface. **As to claim 5**, wherein the width of the arch shaped space created by said neck trough and its legs are equal in width to the continuous, horizontal exterior surface at the opposing end (see figures 1-3), **however does not disclose a device constructed of polyurethane foam, and surrounded by a continuous piece**

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of foam forming top, bottom, and side exterior surfaces. however Kazmierczak et al. teach an orthopedic pillow support (figure 1, 12) used with a shoulder sling constructed of polyurethane foam (see page 4, 0043). Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was made to modify the head and neck support device of Chitwood in view of Kazmierczak et al. in order to construct the support device from foam material for the purposes of providing cushioning support to a user's head and neck.


3. As to claim 6, Chitwood does not disclose, the airway, neck, and head support device of claim 1 wherein said top exterior surface is marked "CHIN" and said bottom exterior surface is marked "CHEST" with removable labels covering corresponding adhesive strips. Applicant's CHIN or CHEST marking secured with an adhesive strips provides an indicator to a user or an operator to properly position or secure the support device. Kazmierczak et al pillow support has an indicator line (see figure 3, 148) that aids a Physician in properly fitting the sling to the wearer (see abstract). Therefore, it would have been obvious to one of ordinary skills in the art at the time the invention was made to modify the head and neck support device of Chitwood in view of Kazmierczak et al. in order to provide markings on the support device for the purposes of providing an indicator to an user or operator to properly fitting the device to the wearer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-F 8:30-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shumaya B Ali
Examiner
Art Unit 3743


Henry Bennett
Supervisory Patent Examiner
Group 3700